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HOUSE MEMORIAL 102

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Brian F. Egolf

A MEMORIAL

REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO CHARGE THE
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE WITH EXAMINING
THE EXISTING LAW PERTAINING TO CANCER CLINICAL TRIALS AND MAKE
RECOMMENDATIONS FOR LEGISLATION TO ADDRESS THE NEEDS OF NEW
MEXICO CHILDREN WITH CANCER.

WHEREAS, the federal bureau of vital records and health
statistics reports that cancer is the second-highest cause of
death in New Mexico; and

WHEREAS, in 2007, there were an estimated one hundred
fifteen cases per one hundred thousand individuals in New
Mexico; and

WHEREAS, according to the national cancer institute, more
than eighty percent of children with cancer in the United
States are alive five years after diagnosis, compared with
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1 about sixty-two percent in the mid-1970s; and

2 WHEREAS, according to the national cancer institute, much
3 of the dramatic improvement in cancer survival rates for
4 children is due to the development of improved therapies at
5 children's cancer centers; and

6 WHEREAS, there are approximately seventy to eighty new
7 pediatric cancer diagnoses in the state each year; and

8 WHEREAS, about two-thirds of children with cancer are
9 treated in clinical trials; and

10 WHEREAS, phase one cancer clinical trials are those that
11 involve the first experimentation with therapies on human
12 beings and usually evaluate how a new drug should be given, how
13 often it should be given and what dose is safe; and

14 WHEREAS, because children and young adults are relatively
15 more sturdy than older adults, they are most likely to benefit
16 from enrollment into a phase one cancer clinical trial; and

17 WHEREAS, phase one cancer clinical trials are often the
18 only hope left for children who have suffered a relapse, are
19 not responding to other therapies or are adversely responding
20 to other therapies; and

21 WHEREAS, phase one cancer clinical trials usually take
22 place outside of New Mexico and involve a relatively small
23 number of participants; and

24 WHEREAS, children are often turned down for participation
25 in phase one cancer clinical trials because of liability issues

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1 and issues with insurance coverage; and

2 WHEREAS, financial restrictions imposed by third-party
3 payors often prevent New Mexico children from traveling out of
4 state to participate in phase one cancer clinical trials; and

5 WHEREAS, Section 59A-22-43 NMSA 1978 provides that health
6 coverage plans pursuant to that section shall provide coverage
7 for phase two, phase three and phase four cancer clinical
8 trials, but not for phase one clinical trials; and

9 WHEREAS, many children and their families have their only
10 hope of treatment dashed by coverage and sponsor denials that
11 prevent them from participating in phase one cancer clinical
12 trials;

13 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
14 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the New Mexico
15 legislative council be requested to charge the interim
16 legislative health and human services committee with examining
17 the existing law pertaining to cancer clinical trials, as well
18 as law pertaining to medical liability and parental consent for
19 treatment of children, in light of the needs of New Mexico
20 children who wish to have the opportunity to participate in
21 phase one cancer clinical trials; and

22 BE IT FURTHER RESOLVED that the legislative health and
23 human services committee be charged with examining the effect
24 of the current legal framework that affects whether sponsors
25 and insurers will permit New Mexico children to participate in

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1 phase one cancer clinical trials; and

2 BE IT FURTHER RESOLVED that the legislative health and
3 human services committee be charged with making legislative
4 recommendations to address the needs of New Mexico children who
5 would benefit from participation in phase one cancer clinical
6 trials, while addressing the concerns of insurers and sponsors
7 regarding New Mexico children's participation; and

8 BE IT FURTHER RESOLVED that copies of this memorial be
9 transmitted to the co-chairs of the New Mexico legislative
10 council and to the chair of the legislative health and human
11 services committee.